

# **EXHIBIT 26**

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION

DONNA CURLING, ET AL.,	:	
	:	
PLAINTIFFS,	:	
vs.	:	DOCKET NUMBER
	:	1:17-CV-2989-AT
BRIAN P. KEMP, ET AL.,	:	
	:	
DEFENDANTS.	:	

**TRANSCRIPT OF EVIDENTIARY HEARING PROCEEDINGS**

**BEFORE THE HONORABLE AMY TOTENBERG**

**UNITED STATES DISTRICT JUDGE**

**SEPTEMBER 12, 2018**

**10:16 A.M.**

***MECHANICAL STENOGRAPHY OF PROCEEDINGS AND COMPUTER-AIDED***

***TRANSCRIPT PRODUCED BY:***

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UNITED STATES DISTRICT COURT  
OFFICIAL CERTIFIED TRANSCRIPT

1	<u>I N D E X   T O   P R O C E E D I N G S</u>	
2	<u>ELEVENTH AMENDMENT ISSUES REGARDING IMMUNITY AND STANDING</u>	
3		<u>PAGE</u>
4	ARGUMENT	
5	by Mr. McGuire	16
6	by Ms. Bentrrott	20
7	by Mr. Salter	22
8	by Mr. McGuire	31
9	RULING	
10	by The Court	32
11	<u>HEARING ON MOTION FOR PRELIMINARY INJUNCTION</u>	
12	OPENING STATEMENT	
13	by Mr. Cross	35
14	by Mr. Manuso	40
15	by Mr. Brown	44
16	by Mr. Salter	48
17	by Ms. Burwell	62
18	by Mr. Cross	66
19	by Mr. Brown	70
20	<u>WITNESS</u>	<u>PAGE</u>
21	J. ALEX HALDERMAN, Ph.D.	
22	Direct Examination	
23	by Ms. Chapple	73
24	Cross-Examination	
25	by Mr. Barnes	96
26	Cross-Examination	
27	by Ms. Burwell	118
28	RICHARD DeMILLO, Ph.D.	
29	Direct Examination	
30	by Mr. McGuire	130
31	Direct Examination	
32	by Mr. Cross	143
33	(...cont'd...)	

1	(...cont'd...)	
2	<b><u>WITNESS</u></b>	<b><u>PAGE</u></b>
3	Cross-Examination	
4	by Mr. Salter	148
5	Redirect Examination	
6	by Mr. Cross	160
7	CHRIS HARVEY	
8	Cross-Examination	
9	by Mr. Cross	163
10	Cross-Examination	
11	by Mr. McGuire	176
12	Direct Examination	
13	by Mr. Salter	185
14	Recross-Examination	
15	by Mr. Cross	195
16	Recross-Examination	
17	by Mr. McGuire	200
18	MICHAEL BARNES	
19	Direct Examination	
20	by Mr. Salter	205
21	Cross-Examination	
22	by Mr. Brown	217
23	Cross-Examination	
24	by Mr. Cross	225
25	Redirect Examination	
	by Mr. Salter	234
	CECILIA HOUSTON-TORRENCE	
	Direct Examination	
	by Ms. Burwell	236
	Cross-Examination	
	by Mr. Brown	241
	RICHARD BARRON	
	Direct Examination	
	by Ms. Burwell	243
	Cross-Examination	
	by Mr. Cross	265
	Cross-Examination	
	by Mr. McGuire	271
	(...cont'd...)	

1	(...cont'd...)	
2	<b><u>WITNESS</u></b>	<b><u>PAGE</u></b>
3	Redirect Examination	
4	by Ms. Burwell	272
5	CATHY COX	
6	Direct Examination	
7	by Mr. Salter	275
8	Cross-Examination	
9	by Mr. Cross	296
10	Cross-Examination	
11	by Mr. McGuire	305
12		
13		
14		
15		
16		
17		
18		
19		
20		
21		
22		
23		
24		
25		

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CERTIFICATE

323

1 Q. (BY MR. BARNES) Well, let me ask you one last question:

2 Do you know where the Big Chicken is?

3 Now, let me ask you this: The gold standard in your mind  
4 is a paper ballot; correct?

5 A. Yes.

6 Q. All right. And did you ever vote on a paper ballot?

7 A. I have, yes.

8 Q. Old paper ballot where you mark an X?

9 A. Where you fill in the bubble, yes.

10 Q. No, I'm not talking about a bubble. We are over the  
11 optical scanners. I'm talking about an old paper ballot.

12 A. I'm sorry. I am referring to optical scan paper ballots,  
13 the type used in Georgia.

14 Q. I'm talking about old paper ballots. Just, you know, you  
15 mark; isn't that right? Have you ever voted on one of those?

16 A. I don't believe so.

17 Q. Yeah. Well, I have.

18 Now, you have to -- when you -- when you are counting the  
19 paper ballot, every person that is on the list you have to  
20 count -- for example, governor, you go through and you  
21 count two stacks on Stacey Abrams and Brian Kemp for governor.  
22 And then you go through all the governors. Then you go back  
23 and count the same ballot again to lieutenant governor, then  
24 secretary of state.

25 Isn't that the way you do it?

1 authenticate it, that is fine. But this witness --

2 THE COURT: Well, I'm just asking you under the  
3 circumstances of a preliminary injunction hearing -- you know,  
4 we could be here for days and get it properly authenticated.  
5 If you could ask your -- obviously this witness can make a  
6 phone call and determine if it is what it purports to be.

7 Okay?

8 MR. McGUIRE: I have less than a minute left, so I  
9 will be very brief.

10 Q. (BY MR. McGUIRE) So you spoke in your initial examination  
11 by Mr. Cross about the KSU server being used to communicate  
12 with the counties. Do you remember that?

13 A. The KSU web server, yes.

14 Q. So I think I wrote this down. You say the KSU server was  
15 used to communicate to the counties?

16 A. That is correct.

17 Q. What do you mean by communicate to the counties?

18 A. Send information to the counties.

19 Q. Okay. So counties were receiving election information  
20 presumably that was sent from that server?

21 A. Yes. Some election information.

22 Q. That server is the server that was wide open to the world  
23 for at least six months from August 2016 to March of 2017?

24 A. My understanding is that was a communication server that  
25 was improperly configured and exposed, yes.

1 Q. And is it not the source of the pollbook data that the  
2 counties download to use in their own election operations?

3 A. It is not currently.

4 Q. At the time though it was?

5 A. I'm -- I don't -- I don't believe that is correct. But  
6 I'm not 100 percent sure, Your Honor.

7 Q. Is it not true that the counties -- that the Secretary of  
8 State's office would send out Tweets to the counties saying  
9 your e-pollbook information is ready to download?

10 A. There were -- there was some information that would come  
11 that way. For example, the bulk update, which is -- at the end  
12 of advanced voting, you take the data for everybody who has  
13 advanced voted and you send the counties the registration  
14 numbers of those individuals so that they can go in and mark  
15 them as having already voted so that if they try to show up on  
16 election day they will be shown as voted. That was the kind of  
17 information that was sent across that server.

18 I don't believe that more sensitive information like the  
19 ExpressPoll logs or the ExpressPoll data would have been sent  
20 across that. But I'm not the best person to give you an exact  
21 answer on that.

22 Q. So you are not in a position to contradict Logan Lamb's  
23 affidavit, for example, in which he suggests that that kind of  
24 data was on the KSU server?

25 A. There was some data that was on the server. I don't



1 know -- I don't know.

2 **Q.** And, finally, last question, you would agree with me that  
3 the e-pollbook is part of the certified DRE system that Georgia  
4 uses to conduct its election?

5 **A.** It is part of the voting system.

6 MR. MCGUIRE: No further questions. Thank you.

7 MR. SALTER: May I, Your Honor?

8 THE COURT: Yes. Proceed.

9 MR. SALTER: May it please the Court.

10 DIRECT EXAMINATION

11 BY MR. SALTER:

12 **Q.** Mr. Harvey, once the plaintiffs filed their lawsuit, did  
13 the Secretary of State reexamine the DRE system?

14 **A.** We did.

15 **Q.** And what was the recommendation that was made to the  
16 Secretary of State by the team that conducted that  
17 reexamination in 2017?

18 **A.** That the DREs in the voting system in the three counties  
19 we examined performed flawlessly, recorded and reported every  
20 vote as cast.

21 **(There was a brief pause in the proceedings.)**

22 MR. SALTER: Your Honor, I would like to tender a  
23 copy of the official certification. And if I could approach  
24 the witness with that.

25 THE COURT: Yes.

1 save that information back to that internal server.

2 And then the third server was the one that was used to  
3 build the ExpressPoll data sets. Those are the -- those are  
4 the electors' list that reside on the ExpressPolls that are  
5 used on election day.

6 **Q.** Were the problems -- which servers did the problems that  
7 Mr. Logan Lamb call to your attention affect?

8 **A.** The web server.

9 **Q.** Any of the other two?

10 **A.** No, sir.

11 THE COURT: I'm sorry. The third server uses --  
12 creates the ExpressPoll data sets; right?

13 THE WITNESS: Correct.

14 THE COURT: And is that linked to something?

15 THE WITNESS: It is not. It is also in the  
16 air-gapped system. It is not linked to anything external.

17 THE COURT: But this is -- so I'm just trying to  
18 understand the impact of it. When we go and go to our precinct  
19 and try to vote and they say, you are not listed here. I don't  
20 know who you are, and you insist that you are there, this is  
21 the information they have? They are working off of that?

22 THE WITNESS: Correct. The data set that is --

23 THE COURT: That is worst case scenario. I know  
24 exactly who you are. Yes, go ahead. I have seen you a hundred  
25 times.

1           THE WITNESS: The data set that is on ExpressPoll --  
2           that is a data file that has been generated and built and  
3           replicated. We replicate that data file about 6000 times. It  
4           is placed on compact flash memory cards that are then  
5           hand-delivered to the elections offices in each individual  
6           county.

7           Then those data sets are placed into the  
8           ExpressPolls. Basically it is an electronic electors' list.  
9           It contains not only the information for the polling location  
10          that the device is assigned to, but it also has the polling  
11          information for all other polling locations in use on that  
12          election.

13       **Q. (BY MR. SALTER)** All right. What, if anything, about this  
14       web server issue in 2016 makes the election that would occur on  
15       November the 6th less safe?

16           MR. CROSS: Objection, Your Honor. Speculation.  
17       Foundation.

18           MR. SALTER: He has got a foundation. He makes --

19           THE COURT: I think --

20           MR. SALTER: He makes the memory cards.

21           THE COURT: You need to make your question a lot more  
22       specific than that. I'm sorry.

23           MR. SALTER: He understands the whole system. He has  
24       actually -- actually has the actual factual knowledge, and this  
25       is the issue. We have had a lot of talk and a lot of talk to

1 And it is very easy to give out the incorrect ballot.

2 That was always the Number 1 complaint that we had in Texas.

3 And it just -- it was -- it was amazing no matter what you did  
4 how many times you would get that complaint.

5 **Q.** Okay. So if given that, how would you handle early voting  
6 in terms of numbers of locations and places? What do you think  
7 you would need to do?

8 **A.** I don't think I -- I would probably cut the number of  
9 early voting sites down to a minimum. Either just have it at  
10 the government center or maybe have it at our annexes as well.  
11 But no more than three places. I just don't -- there are too  
12 many headaches.

13 **Q.** What about training for an election using paper ballots?

14 **A.** We have already begun our online training. Our poll  
15 workers go through online training, as well as in-person  
16 training. The online training has already started. As far as  
17 the -- we're going to begin soon the in-person training.

18 We would have to rewrite all of our procedures. And the  
19 manuals -- we try to get those printed before training. I just  
20 don't see that it is -- at this point at this late date, I  
21 don't see how it is reasonable to expect any of the counties to  
22 do that.

23 **Q.** Would you need ballot boxes at each precinct if you went  
24 to paper ballots?

25 **A.** Yes.

1 Q. Do you know how many ballot boxes you would need?

2 A. Well, we are going to need at least -- it depends on -- we  
3 have 183 polling places, 377 precincts. So you are talking --  
4 we would need at least 250 to 300 ballot boxes. Some of them  
5 are going to -- it just depends on the turnout. I mean, we are  
6 going to have to have extra ballot boxes out there because some  
7 of them are going to overflow. And they would have to be  
8 sealed during the day, and we would have to open up a new one.

9 Now, if we had precinct counters in some of them, we  
10 could -- I don't even know if the optical scan units can mount  
11 on to -- they can mount on to like a big huge box where the  
12 ballots drop in to that. I don't know if those are available.

13 Q. For purchase for use?

14 A. Correct.

15 Q. What impact would having a few -- how many early voting  
16 locations are you expecting to have currently using DRE  
17 machines?

18 A. We have 20. And then we're going to have up to two  
19 outreach locations per day going.

20 Q. So if you cut that down to three locations, what impact  
21 will that have on election day?

22 A. We're going to have -- the lines are going to be -- we're  
23 going to have longer lines. It usually takes longer to vote a  
24 paper ballot from what I have witnessed over 19 years because  
25 it just -- people are coloring those ovals in. It takes longer

1 than it does to press -- press the screen and scroll through a  
2 screen.

3 **Q.** Are you required to keep track of all paper ballots?

4 **A.** Yes. You have to do -- we would have to design some  
5 new -- I mean, it would basically be an accounting -- like an  
6 accounting sheet. You know, it is not going to be that hard to  
7 design it. But you have to make sure that you account for all  
8 of the unvoted ballots, the voted ballots, any ballots that are  
9 spoiled during the day if the voter makes a mistake,  
10 provisional ballots.

11 MS. BURWELL: I have nothing further, Your Honor.

12 MR. SALTER: Nothing from the state, Your Honor.

13 THE COURT: All right. Can you-all possibly  
14 consolidate your questions -- the sides -- or have you already  
15 divided territory?

16 MR. CROSS: We have divided these up.

17 **(There was a brief pause in the proceedings.)**

18 CROSS-EXAMINATION

19 BY MR. CROSS:

20 **Q.** Mr. Barron, you talked about dealing with the election  
21 results from the April 2017 sixth district special election;  
22 right?

23 **A.** Yes.

24 **Q.** You said you had to modem the results in; is that right?

25 **A.** Yes.

1 Q. And by modem, you mean a computer modem? Just sending the  
2 results in over the internet; right?

3 A. No. It is an old analog -- they are analog phone lines.

4 Q. So what does the modem connect to?

5 A. They go from our -- from -- all of the machines that we  
6 have, we have card readers up at our check-in centers. Those  
7 go into a phone line that we have at the check-in centers.  
8 They are assigned phone numbers -- modem phone numbers into our  
9 server.

10 Q. They are assigned phone numbers into the GEMS server?

11 A. The GEMS server.

12 Q. Mr. Barron, do you honestly not understand that hackers  
13 can get into the GEMS server through the phone modem?

14 A. That is extraordinarily difficult to do.

15 Q. You are not a computer scientist, are you?

16 A. No. But I have asked people with the expertise about it.  
17 And it would take an extraordinary effort to even do that.

18 Q. You've never heard of hackers -- okay. It is fine.

19 But your GEMS server is connected to phone lines? We're  
20 clear about that.

21 A. These are analog phone lines.

22 Q. All right. So it is not air-gapped? Let's just be clear.  
23 Correct?

24 A. Yes, it is.

25 Q. You think a GEMS server that is connected to phone lines

1 is air-gapped? That is your understanding of air-gapped; is  
2 that right, sir?

3 **A.** Yes.

4 **Q.** Thank you. You mentioned something about you got error  
5 messages from the election night reporting system that were  
6 gobbledygook; is that right?

7 **A.** Uh-huh (affirmative).

8 **Q.** Yes?

9 **A.** Yes.

10 **Q.** Thank you. You talked about the challenge of poll workers  
11 handing out the right paper ballot. But poll workers have to  
12 figure out which electronic ballot voters use on a DRE;  
13 correct?

14 **A.** Yeah. They do that on the ExpressPoll.

15 **Q.** Right. So -- but because there is no hard copy of the  
16 ballot that is voted by any particular voter on a DRE, we  
17 actually have no idea how often a voter gets the wrong ballot  
18 on a DRE; right?

19 **A.** Usually -- I mean, we do get -- we do get complaints here  
20 and there about that, yes.

21 **Q.** On the DRE?

22 **A.** Yes. It is just that over 19 years when you get -- use a  
23 paper system the number of complaints go way up.

24 **Q.** Mr. Barron, you actually have concerns about the existing  
25 electronic system because of the age of the software; correct?



C E R T I F I C A T E

UNITED STATES OF AMERICA

NORTHERN DISTRICT OF GEORGIA

I, SHANNON R. WELCH, RMR, CRR, Official Court Reporter of the United States District Court, for the Northern District of Georgia, Atlanta Division, do hereby certify that the foregoing 322 pages constitute a true transcript of proceedings had before the said Court, held in the City of Atlanta, Georgia, in the matter therein stated.

In testimony whereof, I hereunto set my hand on this, the 15th day of September, 2018.

*Shannon R. Welch*

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SHANNON R. WELCH, RMR, CRR  
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UNITED STATES DISTRICT COURT

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